

THE SCHOOL ADMINISTRATOR

and Uniform Compliance Guidelines

Volume 157A

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NEW LAWS AFFECTING SCHOOL CORPORATIONS

The following is a Digest of some of the laws passed by the 2002 Regular Session of the General Assembly affecting school corporations. Please note the effective dates. Some of the laws do not pertain directly to school corporations but are included in the Digest for ready reference to the covered subject matter.

The Digest is not intended as an expression of legal interpretation. Nor is the Digest intended to be all inclusive. The Digest does not include any information pertaining to the currently ongoing Special Session of the General Assembly. References in the Digest will be to the Indiana Code in the following form (Amends IC 20-5-2-2) (Amends Indiana Code, Title 20, Article 5, Chapter 2, Section 2).

PUBLIC LAW 2 – SENATE ENROLLED ACT 57. EFFECTIVE JULY 1, 2002. TITLE 32. Recodifies IC 32.

PUBLIC LAW 3 – HOUSE ENROLLED ACT 1010. EFFECTIVE JULY 1, 2002. PROPERTY SEIZURE. Amends IC 34-24-1-1 concerning equipment seizures by police departments in certain circumstances.

PUBLIC LAW 31 - SENATE ENROLLED ACT 443. EFFECTIVE JULY 1, 2002. PUBLIC PURCHASES LAW. Amends IC 5-22-3-4 to provide that the governmental body may receive electronic offers by fax machine, e-mail or by means of another electronic system that has a security feature that protects the content of the electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means. Also amends IC 5-22-7-5 and IC 5-22-9-3 to provide the purchasing agency for a political subdivision may also provide electronic access to the notice through the electronic gateway administered by the Intelenet Commission as determined by the Commission.

Also adds IC 5-22-22-4.5 to provide the purchasing agency may sell surplus property using an Internet auction site that satisfies both of the following: (1) The site is approved by the Intelenet Commission. (2) The site is linked to the electronic gateway administered by the Intelenet Commission. The purchasing agency's posting of the sale on the Internet auction site must include a detailed description of the surplus property to be sold. The purchasing agency may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site. Also provides corresponding amendments to IC 5-22-22-5, IC 5-22-22-11 and IC 5-22-22-12 concerning these changes.

PUBLIC LAW 45 - HOUSE ENROLLED ACT 1201. EFFECTIVE JULY 1, 2002. FOUNDATION DONATIONS. Adds IC 20-5-6-10 to provide the governing body of a school corporation may donate proceeds of a grant, a gift, a donation, an endowment, a bequest, a trust, or an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, or other funds not generated from taxes levied by the school corporation, to a foundation under the following conditions: (1) the foundation is charitable nonprofit community foundation. (2) the foundation retains all rights to the donation, including investment powers, except as provided in subdivision (3). (3) that the foundation agrees to do the following: (A) hold the donation as a permanent endowment. (B) Distribute the income from the donation only to the school corporation as directed by resolution of the governing body of the school corporation. (C) Return the donation to the general fund school corporation if the foundation: loses the foundation's status as a public charitable organization; is liquidated; or violates any condition of the endowment set by the governing body of the school corporation. A school corporation may use income received from a community foundation under the section only for purposes of the school corporation.

PUBLIC LAW 49 - HOUSE ENROLLED ACT 1238. EFFECTIVE JULY 1, 2002. STATE SURPLUS PROPERTY. Amends IC 5-22-21-7 to provide the Commissioner of the Department of Administration shall determine the market price for the surplus property that is stated in the notice of the sale. The Department shall sell the surplus property to the highest governmental bidder whose bid equals or exceeds the market price determined by the Commissioner.

PUBLIC LAW 61 - SENATE ENROLLED ACT 59. EFFECTIVE JULY 1, 2002. TRF, PERF, ELECTRONIC TRANSFERS. Amends IC 20-5-3-1 to provide a school corporation treasurer may transact financial business with the Teachers Retirement Fund or the Public Employees Retirement Fund through the use of electronic funds transfer. Similar provisions are added for PERF.

Also provides various other changes to IC 5-10.2, IC 5-10.3 and IC 36-8 concerning contributions, rollovers and distributions.

PUBLIC LAW 73 – SENATE ENROLLED ACT 269. EFFECTIVE JULY 1, 2002. Amends IC 5-10.2 concerning vested status for certain PERF members.

PUBLIC LAW 85 - SENATE ENROLLED ACT 175. EFFECTIVE JANUARY 1, 2003. REFERENDUMS. Amends IC 6-1.1-19-4.5 to provide the voters in the referendum may not approve a referendum tax levy that is imposed for more than seven (7) years. However a referendum tax levy may be reimposed or extended under the subsection. Also provides if the majority of individuals who voted in the referendum voted yes, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination the school corporation's maximum general fund tax levy under the chapter and IC 21-3-1.7. If the majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the appellant school corporation may not make any tax levy for its general fund other than a normal tax levy, and another referendum under the subsection may not be held for a period of one (1) year after the date of the referendum.

Also adds IC 21-2-11.62 to establish the Referendum Tax Levy Fund. (Fund 16) The governing body of each school corporation for which a referendum tax levy is approved under IC 6-1.1-19-4.5(c) shall establish a referendum tax levy fund. Provides money in the fund may be used for any lawful school expenses.

PUBLIC LAW 86 - SENATE ENROLLED ACT 178. EFFECTIVE JULY 1, 2002. TITLE IV-D SUBPOENAS. Amends IC 12-17-2-16 to provide that each unit of state and local government shall comply with administrative subpoenas issued by a Title IV-D agency in another jurisdiction. Also amends IC 31-16-15-16 concerning child support to provide "If the income payor: (1) is required to withhold income from more than one (1) obligor under this chapter; and (2) employs more than fifty (50) employees; the income payor shall make payments to the state central collection unit through electronic funds transfer."

PUBLIC LAW 90 – SENATE ENROLLED ACT 357. EFFECTIVE VARIOUS DATES. STATE BOARD OF TAX COMMISSIONERS. ELIMINATION OF REFERENCES. Numerous provisions throughout the Indiana Code that are amended to replace the State Board of Tax Commissioners with the Department of Local Government Finance.

PUBLIC LAW 98 - HOUSE ENROLLED ACT 1158. EFFECTIVE MARCH 21, 2002. ENERGY SAVINGS CONTRACTS. Amends and adds to IC 36-1-12.5 concerning energy savings contracts. IC 36-1-12.5-0.5 is added to provide in this chapter, "actual savings" includes stipulated savings.

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IC 36-1-12.5-0.7 is added to provide as used in this chapter, "causally connected work" means work that is required to properly implement an energy conservation measure.

IC 36-1-12.5-1 (6) is amended to provide for other energy conservation measures that reduce energy consumption or reduce operating costs, including future: (A) labor costs; (B) costs for contracted services; and (C) related capital expenditures.

IC 36-1-12.5-2.5 is added to provide "industry engineering standards" includes the following: (1) lifecycle costing. (2) the R.S. Means estimating method developed by the R.S. Means Company. (3) historical data. (4) manufacturer's data. (5) American Standard Heating Refrigeration Air-Conditioning Engineers (ASHRAE) standards.

IC 36-1-12.5-3.5 is added to provide As used in this chapter, "related capital expenditures" includes capital costs that: (1) the governing body reasonably believes will be incurred during the contract term; (2) are part of or are causally connected to the energy conservation measures being implemented; and (3) are documented by industry engineering standards.

IC-36-1-12.5-3.7 is added to provide as used in this chapter, "stipulated savings" are assumed savings that are documented by industry engineering standards.

Adds changes to IC 36-1-12.5-10. Reporting to the Indiana Department of Commerce.

IC 36-1-12.5-11 is added to provide (a) A guaranteed energy savings contract that includes stipulated savings must specify the methodology used to calculate the savings using industry engineering standards. (b) Stipulated savings may be used for energy conservation measures including the following: (1) Heating. (2) Air conditioning. (3) Ventilating. (4) Lighting. (5) Roofing. (6) Windows. (7) Water conservation. (8) Fuel and power improvements. (9) Any work that is causally connected to the energy conservation measures listed in subdivisions (1) through (8). (c) The guaranteed energy savings contract shall: (1) describe stipulated savings for: (A) energy conservation measures; and (B) work causally connected to the energy conservation measures; and (2) document assumptions by industry engineering standards.

IC 36-1-12.5-12 is added to provide (a) An improvement that is not causally connected to an energy conservation measure may be included in a guaranteed energy savings contract if: (1) the total value of the improvement does not exceed fifteen percent (15%) of the total value of the guaranteed energy savings contract; and (2) either: (A) the improvement is necessary to conform to a law, a rule, or an ordinance; or (B) an analysis within the guaranteed energy savings contract demonstrates that: (i) there is an economic advantage to the political subdivision in implementing an improvement as part of the guaranteed energy saving contract; and (ii) the savings justification for the improvement is documented by industry engineering standards. (b) The information required under subsection (a) must be reported to the department of commerce.

PUBLIC LAW 111 - SENATE ENROLLED ACT 290. EFFECTIVE MARCH 26, 2002. TRANSFER TUITION SPECIAL EDUCATION. Amends IC 20-8.1-6.1-8 (b) STEP TWO to provide if a transferee school included the transfer student in the transferee school's ADM to allocate to the transfer student a proportionate share of the special education grant under IC 21-3-2.1. Also amends (g) to include IC 21-3-2.1 and IC 21-3-12.

Also amends IC 21-3-1.6 concerning the "at risk index".

Also adds IC 21-3-2.1 concerning special education grants and corresponding pupil counts.

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PUBLIC LAW 124 - HOUSE ENROLLED ACT 1015. EFFECTIVE MARCH 26, 2002. PRICE GOUGING IN DECLARED EMERGENCIES. Adds IC 4-6-9.1 concerning Attorney General powers and duties regarding price gouging.

PUBLIC LAW 126 – HOUSE ENROLLED ACT 1101. EFFECTIVE VARIOUS DATES. ELECTION LAW CHANGES. Amends and adds to various election law requirements.

PUBLIC LAW 127 - HOUSE ENROLLED ACT 1108. EFFECTIVE MARCH 26, 2002. CHARTER SCHOOLS. Amends IC 5-1.4-1-10 to add that a charter school established under IC 20-5.5 that is sponsored by the executive of the consolidated city is included in the definition of a qualified entity.

Also adds IC 20-10.1-30 concerning High School Diploma Program for eligible veterans. Provides a fee may not be charged to process an application or award a diploma.

PUBLIC LAW 128 – HOUSE ENROLLED ACT 1121. EFFECTIVE MARCH 26, 2002. PRIVATE ROAD TRAFFIC REGULATION. Amends IC 9-21-1-2 concerning requests for private road traffic regulation within an authority's jurisdiction.

PUBLIC LAW 129 - HOUSE ENROLLED ACT 1133. EFFECTIVE JULY 1, 2002. SCHOOL BUSES. Amends IC 20-9.1-1-4.5 to provide additional definitions for "special purpose bus". Also amends IC 20-9.1-4 concerning membership on the State School Bus Committee.

PUBLIC LAW 144 - SENATE ENROLLED ACT 407. EFFECTIVE JULY 1, 2002. INDOOR AIR QUALITY IN SCHOOLS; CAPITAL PROJECTS BOND. Adds IC 20-10.1-33 concerning indoor air quality in schools inspection evaluation programs. Amends IC 21-2-15-4 to add (j) to provide money from the capital projects fund may be used to carry out a plan developed under IC 20-10.1-33.

PUBLIC LAW 170 – SENATE ENROLLED ACT 399. EFFECTIVE APRIL 1, 2002. CENSUS CHANGES. Amends various sections of the Indiana Code concerning the 2000 census.

PUBLIC LAW 176 – HOUSE ENROLLED ACT 1138. EFFECTIVE JULY 1, 2002. PROPERTY TAX REPLACEMENT CREDIT. Amends IC 6-1.1-21-10 and adds IC 6-1.1-21-10.5 to provide for the advance of an estimated distribution of Property Tax Replacement Credit under certain circumstances.

PUBLIC LAW 178 – HOUSE ENROLLED ACT 1196. EFFECTIVE MARCH 28, 2002. BUDGETS, SCHOOL CORPORATION TRANSFERS. Amends IC 6-1.1-17-5 to add (f) if a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivision for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

Amends IC 6-1.1-17-13 to add (b) This subsection applies to provisions of the budget and tax levy of a political subdivision: (1) against which an objection petition was filed under section 5(b) of this chapter; and (2) that were not changed by the fiscal body of the political subdivision after hearing the objections.

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A group of ten (10) or more taxpayers may not initiate an appeal under subsection (a) against provisions of the budget and tax levy if less than seventy-five percent (75%) of the objecting taxpayers with respect to the objection petition filed under section 5(b) of this chapter were objecting taxpayers with respect to the objection statement filed under subsection (a) against those provisions.

Amends IC 6-1.1-18-9 to delete item (1).

Also amends IC 6-1.1-19-2 concerning the school corporation appeals for emergency financial relief at any time before September 20 of the calendar year immediately preceding the ensuing calendar year.

Amends IC 6-1.1-20-1.1 concerning a "controlled project" as a project that will not cost the political subdivision more than two million dollars (\$2,000,000).

Amends IC 6-1.1-20-3.1 to add item (F) With respect to bonds issued or a lease entered into to open: (i) a new school facility; or (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space; the estimated costs the school corporation expects to incur annually to operate the facility. (G) A statement of whether the school corporation expects to appeal as described in IC 6-1.1-19-4.4(a)(4) for an increased adjusted base levy to pay the estimated costs described in clause (F).

Amends IC 6-1.1-20-3.2(7) concerning a political subdivision not being required to follow IC 6-1.1-20-5.

Amends IC 6-1.1-30-1.1 concerning the Governor appointing a commissioner for the Department of Local Government Finance.

Numerous other changes to IC 6 concerning taxes.

Adds IC 21-2-4-7 to provide (a) The governing body of a school corporation may adopt a resolution to transfer after June 30, 2002, and before January 1, 2003, money that is: (1) not greater than the remainder of the amount described in IC 21-3-1.7-8 STEP TWO (C) minus the amount transferred under IC 21-2-11.5-5(a) and IC 21-2-15-13.1(a); and (2) on deposit in the school corporation's debt service fund; to the school corporation's general fund for use for any general fund purpose. (b) The governing body of a school corporation may adopt a resolution to transfer after December 31, 2002, and before July 1, 2003, money that is: (1) not greater than the remainder of the amount described in IC 21-3-1.7-8 STEP TWO (D) minus the amount transferred under IC 21-2-11.5-5(b) and IC 21-2-15-13.1(b); and (2) on deposit in the school corporation's debt service fund; to the school corporation's general fund for use for any general fund purpose. (c) This section expires July 1, 2003.

Also adds IC 21-2-11.5-5 to provide the governing body of a school corporation may adopt a resolution to transfer after June 30, 2002, and before January 1, 2003, money that is: (1) not greater than the remainder of the amount described in IC 21-3-1.7-8 STEP TWO (C) minus the amount transferred under IC 21-2-4-7(a) and IC 21-2-15-13.1(a); and (2) on deposit in the school corporation's: (A) transportation fund; (B) school bus replacement fund; or (C) both the transportation fund and school bus replacement fund; to the school corporation's general fund for use for any general fund purpose. (b) The governing body of a school corporation may adopt a resolution to transfer after December 31, 2002, and before July 1, 2003, money that is: (1) not greater than the remainder of the amount described in IC 21-3-1.7-8 STEP TWO (D) minus the amount transferred under IC 21-2-4-7(b) and IC 21-2-15-13.1(b); and (2) on deposit in the school corporation's: (A) transportation fund; (B) school bus replacement fund; or (C) both the transportation fund and school bus replacement fund; to the school corporation's general fund for use for any general fund purpose. (c) This section expires July 1, 2003.

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Adds IC 21-2-15-13.1 to provide (a) The governing body of a school corporation may adopt a resolution to transfer after June 30, 2002, and before January 1, 2003, money that is: (1) not greater than the remainder of the amount described in IC 21-3-1.7-8 STEP TWO (C) minus the amount transferred under IC 21-2-4-7(a) and IC 21-2-11.5-5(a); and (2) on deposit in the school corporation's capital projects fund; to the school corporation's general fund for use for any general fund purpose. (b) The governing body of a school corporation may adopt a resolution to transfer after December 31, 2002, and before July 1, 2003, money that is: (1) not greater than the remainder of the amount described in IC 21-3-1.7-8 STEP TWO (D) minus the amount transferred under IC 21-2-4-7(b) and IC 21-2-11.5-5(b); and (2) on deposit in the school corporation's capital projects fund; to the school corporation's general fund for use for any general fund purpose. (c) This section expires July 1, 2003.

Amends and adds to various other sections of IC 21-3 concerning state support.

PUBLIC LAW 179 - HOUSE ENROLLED ACT 1257. EFFECTIVE MARCH 28, 2002. CHARTER SCHOOLS. Amends IC 5-1.5-1-8 to add item (12) to define a "qualified" entity, a charter school, established under IC 20-5.5 that is not a qualified entity under IC 5-1.4-1-10.

Amends IC 6-1.1-10-16.7 concerning real property exemptions.

PUBLIC LAW 186 - HOUSE ENROLLED ACT 1360. EFFECTIVE MARCH 28, 2002. BUILD INDIANA FUND. Amends and adds to IC 4-30-17 concerning Build Indiana Funds to add political subdivisions and volunteer fire departments or other recognized groups providing firefighting or other emergency services to the area served by the political subdivision.

Add definitions for projects to IC 4-30-17-4.1, including land, improvements, buildings, and equipment. Also provides procedures for applicants.

IC 4-30-17-11 is added requiring conditions for the receipt of Build Indiana Funds including being subject to audit and reporting requirements under IC 5-11-1 (State Board of Accounts).